IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 30580 of 2007(M)

PETITIONER:

M/S.ESSAR TELECOM INFRASTRUCTURE (P) LTD
41/256, C-19, SECOND FLOOR, MATHER SQUARE,
OPP.NORTH RAILWAY STATION, COCHIN - 682 018.
REPRESENTED BY EXECUTIVE
(SITE ACQUISITIONS & ADMINISTRATION)
MR.RAHUL DAS.

BY ADV. SRI.SANTHOSH MATHEW
SRI.SATHISH NINAN

RESPONDENTS:

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1. VILAYUR GRAMA PANCHAYATH, VILAYOOR P.O
PALAKKAD DISTRICT,
REPRESENTED BY ITS SECRETARY.

2. THE VILAYUR GRAMA PANCHAYATH COMMITTEE,
VILAYUR P.O., PALAKKAD DISTRICT
REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.RAJESH SIVARAMANKUTTY FOR R2
SRI.P.K.MOHANAN(PALAKKAD) FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Pius C. Kuriakose, J.

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W.P.(C) No. 30580 of 2007

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Dated this the 14th day of December, 2007

JUDGMENT

Challenge in this writ petition filed by Essar Telecom Infrastructure (P) Ltd., a company offering mobile telephone service, is Ext.P2 notice of the 1st respondent Panchayat directing the petitioner to stop the construction of the tower which was permitted under Ext.P1 permit. Counter affidavits have been filed by the President and Secretary of the respondent panchayat. The averments contained in the counter affidavit filed by the Secretary would show that the public who are residing very close to the site of the tower submitted Ext.R1(a) mass petition and on considering Et.R1(a) petition the Panchayat in its meeting held on 3-10-2007 resolved to have a conference of the public and the representatives of the company, so that the apprehension in the mind of the public can be removed. It was in the context of Ext.R1(c) that the impugned notice. was issued. It is also stated that though the petitioner company was also invited to settle the dispute, they did not respond.

2. Heard learned counsel for the petitioner and learned counsel for the respondent Panchayat.

3. Relying on a decision of a Division Bench of this Court reported in Reliance Infocomm V. Chemancherry Grama Panchayat (2006(4) KLT 695), the learned counsel for the respondent panchayat submits that the period of stay ordered by this Court on 15-11-2007 has expired.

4. On considering Ext.R1(a), it is seen that the ground on which the neighbouring public opposed to the proposed tower is that the same will affect their peaceful life. Even if it is assumed that the local public is having some apprehension regarding possible the health hazards, the issue is covered by a decision reported in Reliance Infocomm's case (Supra). Pursuant to the interim order the petitioner was able to complete the construction of the tower. The issue is covered by the decision in Reliance Infocomm's case.

7. Hence, the writ petition will stand disposed of permitting the petitioner to energize the tower.

Pius C. Kuriakose,
Judge.

mn.